

§ 1423.10 Exceptions for United States Warehouse Act licensed warehouses.

The financial requirements, net worth alternatives and examination provisions of this part do not apply if the warehouse operator is licensed under the U.S. Warehouse Act (USWA) for such commodities, but an examination under this part will be made of such a warehouse whenever CCC determines such action is necessary to protect its interests.

§ 1423.11 Delivery and shipping standards for cotton warehouses.

(a) Unless prevented from doing so by severe weather conditions, fire, explosion, flood, earthquake, insurrection, riot, strike, labor dispute, acts of civil or military authority, non-availability of transportation facilities or any cause beyond the control of the warehouse operator that renders performance impossible, the warehouse operator will:

(1) Deliver stored cotton without unnecessary delay.

(2) Be considered to have delivered cotton without unnecessary delay if, for the week in question, the warehouse operator has made available for shipment at least 4.5 percent of their applicable storage capacity in effect during the relevant week of shipment.

(b) The warehouse operator shall provide a written report to CCC on a weekly basis. The reporting week shall be the seven day period starting at midnight following the close of business on each Saturday and ending at midnight after close of business of the following Saturday. Before close of business of the first business day of the following week, the warehouse operator will provide following information to CCC:

(1) Bales made available for shipment (BMAS) during such week. BMAS is defined as any cotton bales that:

(i) Have been delivered, or are scheduled and ready for delivery during such week; and

(ii) Were scheduled and ready for delivery in a previous week, but were not picked up by the shipper and remain available for immediate loading and another shipping date has not been established, or such bales are not subject

to a restocking fee as provided in the warehouse operator's public tariff.

(2) Active shipping orders, by week; and

(3) Applicable storage capacity that is the higher of CCC approved capacity or the maximum number of bales stored at any time during the applicable crop year.

(c) The warehouse operator may resolve any claim for noncompliance from any entity other than CCC with the cotton shipping standard in a court of competent jurisdiction or through mutually agreed upon arbitration procedures. In no case will CCC provide assistance or representation to parties involved in arbitration proceedings arising with respect to activities authorized under the Cotton Storage Agreement.

[71 FR 51426, Aug. 30, 2006]

§ 1423.12 Application, inspection, and annual agreement fees.

Each warehouse operator not licensed under USWA shall pay to CCC a fee or fees, including an application fee, inspection fee, and an annual agreement fee for each warehouse approved by CCC or for which approval is sought. The terms and conditions of such fees will be set forth in the applicable agreement.

§ 1423.13 Appeals, suspensions, and debarment.

(a) After initial approval, warehouse operators may request that CCC reconsider adverse actions when the warehouse operator establishes that the reasons for the action have been remedied or requests reconsideration of the action and presents to the Director, KCCO, in writing, information in support of such request. The warehouse operator may, if dissatisfied with the Director's determination, obtain a review of the determination and an informal hearing by submitting a request to the Deputy Administrator. Appeals shall be as prescribed in part 780 of this title, and under such regulations the warehouse operator shall be considered as a "participant."

(b) Suspension and debarment actions taken under this part shall be conducted in accordance with part 1407 of this chapter. After expiration of the

suspension or debarment period, a warehouse operator may, at any time, apply for approval under this part.

PART 1424—BIOENERGY PROGRAM

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AUTHORITY: 7 U.S.C. 8108, 15 U.S.C. 714b and 714c.

SOURCE: 68 FR 24600, May 7, 2003, unless otherwise noted.

§ 1424.1 Applicability.

This part sets out regulations for the Bioenergy Program (program). It sets forth, subject to the availability of funds as provided herein, or as may be limited by law, the terms and conditions a bioenergy producer must meet to obtain payments under this program and part from the Commodity Credit Corporation (CCC) for eligible bioenergy production. Additional terms and conditions may be set forth in the document required to request program benefits and in the program contract or agreement prescribed by CCC. This program is effective October 1, 2002, through September 30, 2006.

§ 1424.2 Administration.

This part shall be administered by the Executive Vice President, CCC, under the general direction and supervision of the Executive Vice President or designee. The Executive Vice President or a designee may authorize a waiver or modification of deadlines and other program requirements in cases where lateness or failure to meet such other requirements does not adversely affect the operation of the program,

and may set such additional requirements as will facilitate the operation of the program. The funds available for the program shall be limited as set by this rule, otherwise announced by the Executive Vice President, CCC, or limited by law.

§ 1424.3 Definitions.

The definitions set forth in this section shall be applicable for all purposes of program administration under this subpart.

Agreement means the Bioenergy Program Agreement or other form prescribed by CCC that must be executed for participation in the program.

Application means the application form prescribed by CCC or another form that contains the same terms, conditions, and information required.

ATF means the Bureau of Alcohol, Tobacco, Firearms, and Explosives of the United States Department of Justice.

Base production means a biodiesel producer's current FY's biodiesel production from eligible commodities that is not an increase over biodiesel production in the previous FY to date.

Biodiesel means a mono alkyl ester manufactured in the United States and its territories that meets the requirements of an appropriate American Society for Testing and Materials Standard.

Biodiesel producer means a producer that produces and sells biodiesel who is also registered and in compliance with section 211 (b) of the Environmental Protection Agency Clean Air Act Amendment of 1990.

Bioenergy means ethanol and biodiesel produced from eligible commodities.

Conversion factor means:

(1) For ethanol production, a factor that converts the number of ethanol gallons back to commodity units as determined in the manner announced by CCC;

(2) For biodiesel production, the factor that will treat 1.4 gallons of biodiesel produced as having involved the consumption of one bushel of soybeans in any case when the feedstock was an eligible commodity that has a corresponding oil or grease market price; if there is none, then the factor shall